

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**MARY KATHERINE GAYNIER,
Individually, and on behalf of the
Estate of Andrew Scott Decedent,
Plaintiff,**

v.

**ANTONIO HUDSON, a City of
Dallas Police Officer,
Defendant.**

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Civil Action No. 3:16-CV-2314-D

ORDER

The United States Magistrate Judge filed March 22, 2017 findings, conclusions, and recommendation in this case. After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, defendant's October 28, 2016 motion to dismiss for failure to state a claim is granted, and plaintiff's February 28, 2017 motion for leave to file first amended complaint to add additional parties is denied without prejudice.


All of plaintiff's claims, except for her claim against defendant Antonio Hudson ("Officer Hudson") in his individual and official capacities for use of excessive force, in violation of the Fourth Amendment to the Constitution, are dismissed with prejudice. Plaintiff's claim against Officer Hudson in his official capacity for use of excessive force, in violation of the Fourth Amendment to the Constitution, is dismissed without prejudice.

If, within 21 days from the date of this order, plaintiff does not file an amended complaint that cures the deficiencies in her official capacity claim noted by the United States Magistrate Judge, her official capacity claim will, upon Officer Hudson's renewed motion to dismiss, be subjected to

dismissal with prejudice. No process shall issue at this time.

SO ORDERED.

May 30, 2017.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE